

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3633 / 2019

Kasim Maula Morshad

.....Applicant

V/s.

The State of Maharashtra

....Respondent

* * * *

Mr. Ganesh Bhujbal, advocate for the applicant.

Mr. Yogesh Dabke, APP for State.

CORAM : SANDEEP K. SHINDE, J.

Wednesday, 17th February, 2021.

P.C. :

1. Heard learned Counsel for the applicant and learned APP for State.

2. Applicant has been arrayed as an accused in Crime No.585/2019 registered with Bhosari Police Station for the offence punishable under Section 395 of the Indian Penal Code and Sections 4(25) of the Arms Act. Complainant, Chetan Sapkal reported to the police that, six unknown persons robbed them of the mobile cellphones and cash on the point of dangerous weapon,

whereupon the subject crime came to be registered against six unknown persons. The applicant came to be arrested on the same day i.e. on 8th June, 2019. The investigation in the case is over and chargesheet has been filed.

3. Learned Counsel for the applicant has drawn my attention to the supplementary statement of the complainant recorded on 9th June, 2019, wherein the complainant would say that he learnt from the police that in the subject crime, six accused were arrested including the applicant. The supplementary statement also refers and mentions that, complainant had identified six accused, including the applicant. Relying on this reference, Counsel for the applicant would submit the, test identification parade held on 5th July, 2019 wherein the applicant was identified, is to be ignored and kept out of consideration since the applicant was identified by the complainant on 9th June, 2019. I have no reason to reject the argument of the Counsel for the applicant. Be that as it may, one of the accused has been granted bail by the learned Sessions Court as he was not identified in the test identification parade. However, for the reasons stated above, *prima-facie*, the test

identification parade may not have any bearing while deciding this application. Additionally, the order passed by the learned trial Court, inter-alia, rejecting the bail of the applicant does not make any reference to any antecedents against the applicant.

4. In consideration of the facts of the case and since the investigation is over and additionally the trial is not likely to commence and conclude within reasonable period, the applicant is directed to be released on bail on the following conditions :

O R D E R

(i) The applicant arrested in Crime No. 585/2019 registered at Bhosari Police Station, Pune shall be released on bail on executing P.R. bond for the sum of Rs.25,000/- (Rs. Twenty Five Thousand only) with one or more sureties in the like sum.

(ii) The applicant shall report to the Investigating Officer twice a month i.e. second and fourth Monday between 11:00 to 1:00 p.m. and co-operate in the investigation.

(iii) The applicant shall furnish his permanent residential address and contact number to the Investigating Officer forthwith within a week of his release from jail.

(iv) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case.

6. The application is accordingly allowed and disposed off.

7. It is made clear that, observations made hereinabove, shall be construed as expression of opinion for the purpose of granting bail only and the same shall not, in any way, influence the trial in other proceedings.

Neeta
S.
Sawant

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signed by
Neeta S.
Sawant
Date:
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(Sandeep K. Shinde, J.)